

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MARSHALL ARMSTRONG §
§
v. § CIVIL NO. 4:25-CV-150-SDJ-BD
§
WALMART INC., ET AL. §
§
§

**MEMORANDUM ADOPTING THE REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On June 18, 2025, the Magistrate Judge entered proposed findings of fact and a recommendation (the “Report”), (Dkt. #17), that Plaintiff’s claims be dismissed without prejudice for lack of subject-matter jurisdiction.

Having received the Report of the United States Magistrate Judge, and no timely objections having been filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s Report as the findings and conclusions of the Court. The Court notes that Plaintiff filed a second amended complaint after the Report was issued, but it was untimely and did not address the jurisdictional deficiencies identified in the Report. Specifically, the deadline to amend was May 26, 2025, (Dkt. #13), but Plaintiff filed his amended complaint on June 20, 2025, (Dkt. #18). Further, Plaintiff needed to allege his citizenship and the citizenship of Defendant Wal-Mart Stores Texas, LLC,

and also he needed to allege facts making it facially apparent that the amount in controversy exceeds \$75,000, (Dkt. #13). He did neither. Because the Court will dismiss Plaintiff's claims, Defendants' motion for leave to answer the second amended complaint, (Dkt. #19), is moot.

It is therefore **ORDERED** that Plaintiff's claims against the Defendants are **DISMISSED WITHOUT PREJUDICE** and Defendants' motion for leave, (Dkt. #19), is **DENIED AS MOOT**.

So ORDERED and SIGNED this 24th day of July, 2025.



SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE